



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

SEP - 5 2007

Jeff Lape, Director
Chesapeake Bay Program Office
US Environmental Protection Agency, Region III
410 Severn Avenue, Suite 109
Annapolis, Maryland 21403

Re: 2007 Addendum to Chesapeake Bay Regional Criteria

Dear Mr. Lape,

This is in response to your letter dated August 20, 2007 regarding a second addendum to the *Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries* (Regional Criteria Guidance). Formal consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, was completed between NOAA Fisheries and the US Environmental Protection Agency (EPA) on the Regional Criteria Guidance with the issuance of a Biological Opinion (BO) on April 16, 2004.

Included with your letter was the 2007 Addendum to the Regional Criteria Guidance. The addendum documents the revised, refined and new criteria assessment methods for the published Chesapeake Bay dissolved oxygen, water clarity and chlorophyll a criteria. The goal of the addendum was to address specific technical and procedural issues remaining in applying the methods as specified in the original 2003 publication. The issues require resolution to allow Delaware, Maryland, Virginia and the District of Columbia to assess attainment of their new Chesapeake Bay water quality standards regulations.

EPA has made the determination that the information presented in the 2007 addendum does not change the Regional Criteria Guidance in a way that causes an effect to the endangered shortnose sturgeon (*Acipenser brevirostrum*) that was not considered in the April 16, 2004 BO and that as such, this new information is not cause for reinitiation of Section 7 consultation. As the information presented in the addenda serves only to clarify or update information and procedures presented in the Regional Criteria Guidance and does change the actual criteria, NMFS is able to concur with this determination. As such, no further Section 7 consultation is necessary for EPA's issuance of the 2007 addendum to the Regional Criteria Guidance.



My staff looks forward to continuing to work with your office on water quality issues in the Chesapeake Bay. Should you have any questions regarding these comments, please contact Julie Crocker at (978)281-9300 x6530.

Sincerely,



Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

Cc: Batiuk, EPA (Annapolis)

File Code: Sec 7 EPA Chesapeake Bay Criteria

PCTS: F/NER/2003/00961 (existing file)
T/NER/2007/05583